

Putnam
p.c.m. 17773



DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-198937 *[Claim For]* DATE: April 15, 1981

MATTER OF: Lewis J. Kraft - Per Diem, Travel Expenses, *and* Restoration of Annual Leave]

DIGEST: Social Security Administration (SSA) employee in Arlington, Virginia, requested transfer at same grade to SSA office in Fort Lauderdale, Florida. Employee was detailed to position in Fort Lauderdale office from May 31 to September 1, 1977. There was a verbal understanding with agency officials that travel expenses would not be at Government expense and no written travel order was issued. Employee seeks reimbursement of per diem, travel expenses, and restoration of annual leave. Since claimant requested the detail and decided that the detail, and possibly a subsequent permanent transfer, was in his interest as well as in the interest of the Government, and in absence of a written travel order authorizing or approving reimbursement, the United States is not obligated to pay employee's travel expenses.

Mr. Lewis J. Kraft, an employee of the Bureau of Hearings and Appeals (BHA), Social Security Administration (SSA), Department of Health and Human Services, and his duly authorized representative, Mr. Albert B. Carrozza, Chief Steward, American Federation of Government Employees (AFGE), Local No. 3615, have appealed the Settlement Certificate (Z-2815006) dated April 17, 1980, issued by Our Claims Group, which denied Mr. Kraft's claim for reimbursement of per diem, travel expenses, and restoration of annual leave, while on a temporary detail, not to exceed 120 days, to Fort Lauderdale, Florida.

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Mr. Kraft was employed by BHA as a Mail Clerk, GS-301-4, in Arlington, Virginia. The record shows that for personal reasons, he requested a transfer from Arlington to a south Florida BHA office. Mr. Kraft made the request because his father (an Analyst with the BHA) had recently died, his mother was moving to the Pompano Beach area, and Mr. Kraft felt that it was important to be with his mother to help her through the difficult readjustment period, and later to assist her in raising the family who would still be at home.

There were no available positions that could be offered to Mr. Kraft, but he was subsequently offered a 90-day detail to the Fort Lauderdale district office. He accepted and the detail became effective May 31, 1977, for a period not to exceed September 28, 1977. While on detail, the agency says and the record shows that his work performance was not satisfactory. Thus, he was not offered a permanent position. On September 1, 1977, Mr. Kraft returned to Arlington, Virginia, in his permanent position of Mail Clerk.

After his return, on September 7, 1977, Mr. Kraft filed a grievance in which he contended that management refused to pay him per diem and travel expenses, and refused to grant him appropriate traveltime.

Mr. Kraft's request for relief was denied by his agency, which prompted him to file a claim with our Claims Group. The Claims Group in turn denied his claim on the basis that his transfer was entirely for his own personal convenience and therefore could not be considered as official business. The BHA has also recommended that the claimed expenses not be paid inasmuch as Mr. Kraft was informed that the expenses of his detail were not to be at the expense of the Government.

In the letter of appeal dated April 23, 1980, Mr. Kraft and his representative contend, primarily, that Mr. Kraft never signed any document stating that the detail was for his personal convenience and that

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all official forms, i.e., the Standard Form 52, and others, do not reflect that Mr. Kraft was to pay his own way. In the absence of proof to the contrary, the claimant and his representative conclude that the detail was for the sole convenience of the Government and that Mr. Kraft is entitled to per diem, travel pay, and the 32 hours of annual leave he used while on the detail. Mr. Kraft also objects to the arbitrary and capricious manner in which his case was handled by his agency in that he was not given a hearing. He alleges that he was a victim of management abuse in that the detail should have been documented in his official personnel folder as being for his personal convenience and the special circumstances of the detail outlined therein. Mr. Kraft also cites several decisions of this Office in support of his contentions.

The authority to pay per diem and reimburse travel expenses incurred by an employee while traveling on official business is provided by chapter 57 of title 5, U.S.C. (1976). Regulations issued by the Administrator of General Services pursuant to 5 U.S.C. § 5707 govern the official travel of Federal employees. Paragraph 1-1.4 of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) provides as follows:

"Authority for travel. Except as otherwise provided by law, all travel shall be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated. Ordinarily, an authorization shall be issued prior to the incurrence of the expenses. The authorization shall be as specific as possible in the circumstances as to the travel to be performed."

The above-quoted provision and its preceding regulation in the Standardized Travel Regulations have been construed by this Office as requiring a written authorization or approval, although the words themselves are not clear on the matter. This construction is supported by FTR para. 1-11.3b which states that the travel voucher

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must be supported by a copy of the authorization. Therefore, except when prior issuance is impracticable, or when the travel is of such a limited nature that it is unnecessary, written authorization should be issued prior to incurrence of travel expenses. We have stated that written travel order procedures assist in fund control and meeting requirements of recording obligations at the time they are incurred. Moreover, they also serve to provide a notice and record of the employee's instructions and entitlements. B-181431, February 27, 1975; Robert W. Cooper, B-192590, December 14, 1978.

The evidence of record includes several documents which are pertinent in establishing the circumstances surrounding the detail of Mr. Kraft to Fort Lauderdale. The first is a letter dated July 25, 1977, from Mr. Kraft to the Honorable Gladys N. Spellman, United States House of Representatives, written while Mr. Kraft was on the detail, in which he states:

"* * * In an effort to keep our family together I requested a transfer, in the same GS-4, Step 4 grade to a South Florida office, preferably Ft. Lauderdale, 8 miles from my mother's apartment. * * *"

The second document is a memorandum for the record dated September 21, 1977, by Ms. Hinda Silver, Chief, Recruitment and Placement Section, Personnel Management Branch, BHA, prepared subsequent to the detail, which states as follows:

"Prior to Mr. Kraft going on his detail to Florida, I had a discussion with him and explained that even though he was going on a non-expense detail, if he did well, perhaps BFO would consider a permanent assignment for him. He stated that he was appreciative that Mr. Trachtenberg had arranged the detail for him and he was going to show them (the District Office Personnel) that he could do a great job

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for them. I wished him luck - he said he would be staying with his mother in her new condominium and that he was sure she'd be glad to have him there. He then repeated that he was sure he'd get a permanent assignment because the work was right up his alley."

The record also contains a letter from Mr. Kraft's mother to the then Secretary of Health, Education and Welfare, which states:

"It is both financially and psychologically advantageous to the three of us that Lewis, if at all possible, be allowed to work for the Social Security Administration close by. Of course, we realized the 90-day appointment was temporary."

While we have considered the contentions made by Mr. Kraft and his representative, the record before us shows that he requested the detail to Fort Lauderdale for personal reasons. While travel on Government business is normally performed at Government expense, there are situations in which an employee may be authorized or permitted to travel at his own expense when the travel involves work or training of mutual interest to the employee and the Government. Donald F. X. McIntyre, B-192636, December 15, 1978. McIntyre involved facts and circumstances analogous to the instant case. There, an employee of the General Services Administration (GSA) claimed reimbursement for travel expenses and per diem incurred incident to his attendance at a training course. An actual travel authorization at Government expense for Mr. McIntyre was never executed. However subsequently, travel was authorized by the Regional Administrator on GSA Form 87 showing travel to be performed at "No cost to the Government--Employee traveling at own expense." Prior to his scheduled departure, Mr. McIntyre was notified that due to budgetary restrictions, a freeze had been imposed on GSA travel and his scheduled trip was cancelled. However, in anticipation of a lifting of the freeze and the prospect of missing the training course,

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he elected to attend the course and assume all travel expenses. Prior to completion of the course, the GSA travel freeze was lifted. After completion of the course, and after the freeze had been lifted, Mr. McIntyre requested reimbursement of the expenses he had incurred. Even though the freeze on travel funds had been lifted, there was nothing in the record to show that the specific travel of Mr. McIntyre, previously cancelled, had been reapproved or reauthorized.

In analogizing McIntyre with the instant case, Mr. McIntyre decided that the training was in his interest as well as in the interest of the Government and performed travel incident to the training at his own expense. Here, the evidence of record shows that Mr. Kraft decided that the detail, and possibly a subsequent permanent transfer to a south Florida office of SSA, was in his interest as well as in the interest of the Government. In these circumstances, the United States is not obligated to pay for the travel expenses incurred by the employee.

We would agree with Mr. Kraft and his representative that a notation should have been made on the Standard Form 52 indicating that the travel expenses incurred on the detail were not reimbursable by the Government. However, the failure to make such notation on the Standard Form 52 does not obligate the Government to pay for the travel expenses of Mr. Kraft inasmuch as the record here does not disclose any intention on the part of the SSA to issue a travel order or pay for Mr. Kraft's travel expenses. Since the agency did not intend to bear the expenses of travel of Mr. Kraft, there was no necessity to issue a travel order.

The decisions cited by Mr. Kraft and his representative in support of his contentions are taken out of context and are not applicable here. The "unusual circumstances" referred to in 55 Comp. Gen. 609 (1976), concern the criteria used to authorize actual expenses in lieu of per diem. The family illness or death aspect in Raymond Eluhow, 56 Comp. Gen. 345 (1977), refers to the

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case of an employee on authorized travel who returns to his duty station to attend a funeral. Payment of travel expenses was authorized if the agency determined that the employee's mission was completed or a second trip was made for a different objective. These are two exceptions to the general rule that such travel is personal and therefore not reimbursable, and assumes that the employee was on authorized travel when the event occurred. Mr. Kraft, however, was not authorized to travel. And a reevaluation of an employee's services was suggested in Robert E. Larrabee, 57 Comp. Gen. 147 (1977), to determine an employee's current status where he is placed on a long-term temporary duty assignment and not given a permanent change of station transfer. Thus, none of the cited decisions are applicable in Mr. Kraft's case.

With respect to the contention that Mr. Kraft was not afforded a hearing under the grievance procedures of his agency, the granting of a hearing or utilization of another mode of inquiry was within the discretion of the grievance examiner. 5 C.F.R. § 771.116(d) (1978).

Accordingly, we sustain the Settlement Certificate dated April 17, 1980, issued by our Claims Group, which disallowed Mr. Kraft's claim for per diem, travel expenses, and restoration of annual leave.


Acting Comptroller General
of the United States